IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.375 OF 2004

The State of Maharashtra ...Appellant.

V/s

Babu Narayan Mishra
R/at Virndavan Building
A-305, Goregaon, Mulund,
Link Road, Mulund (West),
Mumbai - 400 080. ...Respondent.

Mr. B.H. Mehta, APP for the appellant - State.

Mr. A.K. Kudtarkar for the respondent.

CORAM: V.M. KANADE, J.
DATE : 6TH DECEMBER, 2004.

P.C.

1. Heard the learned APP appearing on behalf of the appellant - State and the learned Counsel appearing on behalf of the respondent.

2. The State has filed this appeal challenging the Judgment and Order passed by the Metropolitan Magistrate 33rd Court, Ballard Pier in Criminal Case No.598/P/1997. By the said Judgment and Order dated 24/11/2003, the Trial Court acquitted the accused of the offence punishable under section 471 of the Indian Penal Code.

3. Prosecution's case in brief is that the accused had forged certain documents and had submitted the

same to the concerned authority. Prosecution examined three witnesses and produced on record various documents. Respondent - accused also relied upon certified copy of the map issued by the Office of the Land Records as also certified copy of the map issued by the City Survey Office and other documents. The Trial Court, after having perused the evidence on record, came to the conclusion that the witnesses examined by the prosecution were not in a position to explain as to why there was a difference in the area mentioned in the map issued by the City Survey Office. The Investigating Officer also was not in a position to explain as to why the map in question was issued by the concerned authority.

4. The learned APP appearing on behalf of the State has taken me through the Judgment and Order of the Trial Court as also evidence of the prosecution witnesses and the evidence adduced by the accused. I am of the view that the prosecution has failed to explain the discrepancy in the area and amendment in the map which, admittedly, was issued by the Office of the D.I.L.R. From the record, it is clear that the accused had applied for certified copy on various dates and three different maps were issued by the Office. Thus, from this evidence it cannot be said

that the accused had committed forgery as the certified copy was issued by the Office of the D.I.L.R. Apart from that, the complaint has not been filed by the concerned Officer in the Office of the D.I.L.R. but was initially filed by a private party and it was later on converted into a State Prosecution after investigation was carried out under section 156(3) of the Criminal Procedure Code.

5. Under these circumstances, in my view, there is no infirmity in the order passed by the Trial Court. There is no reason to interfere with the said Judgment and Order. Leave is refused. Appeal is dismissed.

V.M. KANADE, J.